

ORDINANCE NO. 14,870

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, adding and enacting a new Article VI, Entertainment Venues to Chapter 14, Amusements and Entertainments, Section 14-180 through 14-190, relating to licensing of entertainment venues.

Be It Ordained by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, adding and enacting a new Article VI, Entertainment Venues to Chapter 14, Amusements and Entertainments, Section 14-180 through 14-190, relating to licensing of entertainment venues, as follows:

ARTICLE VI. ENTERTAINMENT VENUES

Sec. 14-180. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground.

Entertainment venue means any structure, or portion thereof, that is used for the gathering of persons for the purpose of entertainment for no more than four three day periods per year. Any structure used for more frequent gathering of persons for the purposes of entertainment shall be considered as permanent and subject to the building code, zoning, and fire code requirements of this code applicable to such permanent use.

Operator means any person, group, or organization who is responsible for the organization and operation of an entertainment venue.

Sec. 14-181. License required.

No entertainment venue shall be permitted within the city without the operator or owner first obtaining an entertainment venue license from the city.

Sec. 14-182. Exception.

Structures otherwise inspected by the building official, the zoning enforcement officer, and the chief of the fire department and approved for entertainment use occupancy shall not be required to obtain an entertainment venue license.

Sec. 14-183. License application.

- (a) Every applicant for such license shall apply in writing to the city clerk. Such application shall be submitted at least 30 days prior to the proposed date of commencement of operation of such entertainment venue. The requirement that such an application be submitted at least 30 days in advance may be waived by the city manager upon a written finding by the city manager that the necessary review and inspection of the proposed entertainment venue may be completed within the time remaining and that the expedited review of such application will not interfere with the efficient administration of chapter 134 of this Code and the building, fire and traffic Codes.
- (b) Every license application shall contain the following information:
 - (1) The name and address of the applicant and that of the operator.
 - (2) If the application is made on behalf of an organization, the name and address of the organization.
 - (3) The names and phone numbers of two contact persons.
 - (4) The proposed dates and hours of operation of the event.
 - (5) An estimate of daily attendance.
 - (6) A description and diagram of the entertainment venue drawn to a scale of one-fourth inch equals one foot zero inches.
 - (7) The name of the company or named of persons to provide security services at the premises.
- (c) The applicant must give consent in writing on the application, which consent shall be binding upon the operator, organizer or owner of the entertainment venue, that city inspector or members of the fire and police departments may enter the structure without warrant to inspect the structure for purposes of determining compliance with this article and all other applicable statutes and ordinances.
- (d) An application to license an entertainment venue must include, in addition to the information required in subsections (b) and (c) of this section, the following:
 - (1) Presentation by the applicant of a certificate of insurance issued by an insurance company licensed to do business in this state, providing general liability insurance coverage in an amount set by the risk management officer per occurrence and aggregate for the injury or death of any person; for damage to property of others; and for acts of negligence by the owner, operator, or his or her agents in the conduct or operation of an amusement house or entertainment venue. The general liability insurance shall be on a comprehensive or commercial form and shall name the city as an additional insured. The certificate of insurance shall also evidence that the general liability policy may not be cancelled or modified in any way without 30 days' written notice to the city.
 - (2) The cancellation or other termination of any insurance policy presented to comply with this subsection shall automatically revoke and terminate the license issued under this article, unless another certificate, complying with this subsection, shall be provided showing insurance in effect at the time of such cancellation or termination.

Sec. 14-184. License fees.

- (a) An applicant for an entertainment venue license shall submit a fee to the city clerk at the time of filing the application.
- (b) An applicant who makes application less than thirty (30) days prior to the proposed date of commencement of operation shall pay a late fee.
- (c) If the application is denied or if the application is withdrawn before final action is taken by the city clerk, a portion of the application fee shall be retained by the city clerk for the

- cost of administration.
- (d) The license fee, its nonrefundable portion and the late fee for an entertainment venue license shall be in the amounts set in the schedule of fees adopted by the city council by resolution.

Sec. 14-185. License qualifications.

- (a) Prior to the issuance of an entertainment venue license, the city clerk shall forward copies of the application to the building official, the zoning enforcement officer, and the chief of the fire department who shall review the application and, when appropriate, conduct inspections of the proposed site of the entertainment venue in conformance with the standards set out in this article.
- (b) The city clerk shall issue an entertainment venue license only upon a showing that the entertainment venue to be used has the approval of the building official, the zoning enforcement officer, the chief of the fire department and upon a showing that the applicant has complied with all other requirements set out in this article.

Sec. 14-186. Basis for denial of license.

An application for a license required by this article shall be denied if, after review, one or more of the following are found to be true:

- (1) The existence of the entertainment venue will have an adverse impact on the flow of vehicular or pedestrian traffic in the area which cannot be reasonably alleviated or that sufficient parking is not available to accommodate the expected attendance such finding to be determined by the engineering department; or
- (2) The proposed location is in an area not zoned for such use; or
- (3) The entertainment venue has been found not to conform at the time of the application or after the issuance of the license, with the requirements of the city building codes, the fire codes, or that traffic safety requirements cannot be met.

Sec. 14-187. Building standards and inspections.

Before any alteration, modification or construction occurs to any entertainment venue, a building permit shall be obtained as required under section 26-135 of the building code.

Sec. 14-188. Fire standards and inspections.

Before any alteration, modification or construction occurs to any fire protection system of an entertainment venue, a construction permit shall be obtained as required under section 46-1 of the fire prevention and protection code.

Sec. 14-189. Prohibited acts.

- (a) No person or license holder shall create or allow excessive noise in violation of the provisions of article IV of chapter 42 of this Code.
- (b) No person or license holder shall allow the operation of or conduct an entertainment venue without the assistance of security services for the premises.
- (c) No person or license holder shall allow any disorderly conduct, as defined under section 70-36 of this Code.

- (d) No person or license holder shall fail to display the entertainment venue license in a conspicuous place at the public entrance to the licensed premises.

Sec. 14-190. Suspension and revocation of license.

- (a) Any license issued pursuant to this article may be revoked for violations of this article or for any other violation of this Code. No revocation shall issue except upon notice delivered to the licensee by mailing the notice in the regular mail addressed to the licensee at the licensed premises a minimum of ten days prior to the date set for the hearing before the city council. Such notice shall inform the licensee of the time, date and place of the hearing and the purpose of the hearing and shall set out the reasons therefor. However, for violation of the applicable codes of such nature that the violation is deemed to be an immediate safety hazard by city inspectors or the police or fire department and such report is submitted to the city clerk in writing, the city clerk shall be authorized to temporarily suspend the license until notice can be given and hearing held.
- (b) If, after such a hearing, the city council makes a finding based on substantial evidence that a violation of this article or another chapter of this Code did in fact occur as alleged, the city council may continue suspension of or revoke the license; the determination of whether to revoke such license shall be in the discretion of the city council and shall be dependent upon the circumstances surrounding the violation and its severity.
- (c) A licensee whose license has been revoked shall not be eligible for another entertainment venue license for a period not to exceed two years. Any structure having its license revoked shall not be relicensed under this article for a period not to exceed one year.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law.

FORM APPROVED:

Ann DiDonato, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 09-1363), passed by the City Council of said City at a meeting held July 27, 2009 signed by the Mayor on July 27, 2009 and published as provided by law in the Business Record on August 10, 2009. Authorized by Publication Order No. 6628.

Diane Rauh, City Clerk